

of such 18-month period; and the dissolution so begun is completed either before or after the expiration of such 18-month period; or

(2) The written request notifies the regional director (compliance) or the Chief, Tax Processing Center that a dissolution has in good faith begun, and the dissolution is completed either before or after the expiration of such 18-month period; or

(3) A dissolution has been completed at the time the written request is made.

(26 U.S.C. 6501(d))

[T.D. ATF-301, 55 FR 47612, Nov. 14, 1990, as amended by T.D. ATF-353, 59 FR 2522, Jan. 18, 1994]

**§ 70.75 Jeopardy assessment of alcohol, tobacco, and firearms taxes.**

(a) If the regional director (compliance) or the Chief, Tax Processing Center believes that the collection of any tax imposed under provisions of 26 U.S.C. enforced and administered by the Bureau will be jeopardized by delay, the regional director (compliance) or the Chief, Tax Processing Center shall, whether or not the time otherwise prescribed by law for filing the return or paying such tax has expired, immediately assess such tax, together with all interest, additional amounts and additions to the tax provided by law. A regional director (compliance) or the Chief, Tax Processing Center will make an assessment under this section if collection is determined to be in jeopardy because at least one of the following conditions exists.

(1) The taxpayer is or appears to be designing quickly to depart from the United States or to conceal himself or herself.

(2) The taxpayer is or appears to be designing quickly to place the taxpayer's property beyond the reach of the Government either by removing it from the United States, by concealing it, or by dissipating it, or by transferring it to other persons.

(3) The taxpayer's financial solvency is or appears to be threatened.

(b) The tax, interest, additional amounts, and additions to the tax will, upon assessment, become immediately due and payable, and the regional director (compliance) or the Chief, Tax

processing Center shall, without delay, issue a notice and demand for payment thereof in full.

(c) See 26 U.S.C. 7429 with respect to requesting the regional director (compliance) or the Chief, Tax Processing Center to review the making of the jeopardy assessment.

(d) For provisions relating to stay of collection of jeopardy assessments, see § 70.76 of this part.

(26 U.S.C. 6862 and 6863)

[T.D. ATF-301, 55 FR 47612, Nov. 14, 1990]

**§ 70.76 Stay of collection of jeopardy assessment; bond to stay collection.**

(a) The collection of taxes assessed under 26 U.S.C. 6862 (referred to as a "jeopardy assessment" for purposes of this section) of any tax may be stayed by filing with the regional director (compliance) or Chief, Tax Processing Center a bond on the form to be furnished by ATF upon request.

(b) The bond may be filed:

(1) At any time before the time collection by levy is authorized under 26 U.S.C. 6331(a), or

(2) After collection by levy is authorized and before levy is made on any property or rights to property, or

(3) In the discretion of the regional director (compliance) or the Chief, Tax Processing Center, after any such levy has been made and before the expiration of the period of limitations on collection.

(c) The bond must be in an amount equal to the portion (including interest thereon to the date of payment as calculated by the regional director (compliance) or the Chief, Tax Processing Center) of the jeopardy assessment collection of which is sought to be stayed. See 26 U.S.C. 7101 and § 70.281, relating to the form of bond and the sureties thereon. The bond shall be conditioned upon the payment of the amount (together with interest thereon), for which the collection is stayed, at the time at which, but for the making of the jeopardy assessment, such amount would be due.

(d) Upon the filing of a bond in accordance with this section, the collection of so much of the assessment as is covered by the bond will be stayed. The taxpayer may at any time waive the stay of collection of the whole or of

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any part of the amount covered by the bond. If as a result of such waiver any part of the amount covered by the bond is paid, or if any portion of the jeopardy assessment is abated by the regional director (compliance) or the Chief, Tax Processing Center, then the bond shall (at the request of the taxpayer) be proportionately reduced.

(26 U.S.C. 6863)

[T.D. ATF-301, 55 FR 47613, Nov. 14, 1990]

### **§ 70.77 Collection of jeopardy assessment; stay of sale of seized property pending court decision.**

(a) *General rule.* In the case of an assessment under 26 U.S.C. 6862, and property seized for the collection of such assessment shall not (except as provided in paragraph (b) of this section) be sold until the latest of the following occurs:

(1) The period provided in 26 U.S.C. 7429(a)(2) to request the regional director (compliance) or Chief, Tax Processing Center to review the action taken expires.

(2) The period provided in 26 U.S.C. 7429(b)(1) to file an action in U.S. District Court expires if a request for redetermination is made to the regional director (compliance) or Chief, Tax Processing Center.

(3) The U.S. District Court judgment in such action becomes final, if a civil action is begun in accordance with 26 U.S.C. 7429(b).

(b) *Exceptions.* Notwithstanding the provisions of paragraph (a) of this section, any property seized may be sold:

(1) If the taxpayer files with the regional director(s) (compliance) or the Chief, Tax Processing Center a written consent to the sale, or

(2) If the regional director(s) (compliance) or the Chief, Tax Processing Center determines that the expenses of conservation and maintenance of the property will greatly reduce the net proceeds from the sale of such property, or

(3) If the property is of a type to which 26 U.S.C. 6336 (relating to sale of perishable goods) is applicable.

(26 U.S.C. 6863)

[T.D. ATF-301, 55 FR 47613, Nov. 14, 1990, as amended by T.D. ATF-353, 59 FR 2522, Jan. 18, 1994]

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### NOTICE AND DEMAND

#### **§ 70.81 Notice and demand for tax.**

(a) *General rule.* Where it is not otherwise provided by provisions of 26 U.S.C. enforced and administered by the Bureau, the regional director (compliance) or the Chief, Tax Processing Center shall, after the making of an assessment of a tax pursuant to § 70.71 of this part, give notice to each person liable for the unpaid tax, stating the basis for the tax due, the amount of tax, interest, additional amounts, additions to the tax and assessable penalties, and demanding payment thereof. Such notice shall be given as soon as possible and within 60 days. However, the failure to give notice within 60 days does not invalidate the notice. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

(b) *Assessment prior to last date for payment.* If any tax is assessed prior to the last date prescribed for payment of such tax, demand that such tax be paid will not be made before such last date, except where it is believed collection would be jeopardized by delay.

(26 U.S.C. 6303 and 7521)

[T.D. ATF-301, 55 FR 47613, Nov. 14, 1990]

#### **§ 70.82 Payment on notice and demand.**

Upon receipt of notice and demand from the regional director (compliance) or the Chief, Tax Processing Center, there shall be paid at the place and time stated in such notice the amount of any tax (including any interest, additional amounts, additions to the tax, and assessable penalties) stated in such notice and demand.

(26 U.S.C. 6155)

[T.D. ATF-301, 55 FR 47613, Nov. 14, 1990]

### INTEREST

#### **§ 70.90 Interest on underpayments.**

(a) *General rule.* Interest at the underpayment rate referred to in § 70.93 of this part shall be paid on any unpaid amount of tax from the last date prescribed for payment of the tax (determined without regard to any extension